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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DEB EVANS, et al.

Plaintiff,

v.

**FEDERAL ENERGY
REGULATORY COMMISSION,**

Defendant.

No. 1:19-cv-00766-CL

DECLARATION OF TONIA L. MORO

**In Support of Plaintiffs' Motion for
Attorneys' Fees and Costs**

I, Tonia L. Moro, declare and state as follows:

1. I serve as counsel for plaintiffs with Megan C. Gibson, David Bookbinder, and Ciara Malone of the Niskanen Center in this case. I submit this declaration in support of plaintiffs' motion for attorney fees and costs.

2. I have been practicing law in Oregon for over 30 years. To demonstrate my level of experience, expertise, and knowledge I present the

following summary of my practice and educational background. After non-matriculating my third year in law school at Lewis and Clark to study environmental law in 1988/89, and after admission to the Oregon State Bar, I was admitted to the District Court in 1991, which led to an appointment to the Criminal Justice Act Panel (CJAP) in 1993. As a member of that panel prior to the opening of the Medford office of the Federal Public Defender in 2001, after joining the Medford office in 2002 and remaining with that office until 2013, after which I returned to the CJAP, I have gained considerable experience practicing in the District of Oregon. As of 2015, that experience includes assignments to over 240 criminal trial level cases, and to 130 civil federal habeas corpus cases. I have also been appointed to over 100 appellate cases in the 9th Circuit.

3. Prior to 2002 when I joined the Federal Defenders' office, my practice also emphasized land use and administrative law. I reopened those areas of my practice in 2013 and have represented many landowners (including some of the Plaintiffs in this case) in various and numerous land use, administrative, and appellate proceedings in opposition to the Jordan Cove Energy Project and Pacific Connector Gas Pipeline. I have done so, without expectation of payment because, for almost all of the affected landowners and opponents of the Pacific Connector Pipeline, they are only able to afford to pay a small amount, or they raise whatever

they can through donations for the state and local challenges. In other words, I have been working for landowners on a significantly reduced fee, sometimes not getting paid at all. However, with a paying client, my customary billing rate is approximately \$250 an hour.

4. In conjunction with my services in the state and local proceedings, several of the plaintiffs and I made connections with other landowners affected by natural gas pipelines across the nation, and through these connections, learned that Megan Gibson, Esq. and David Bookbinder, Esq., attorneys with the Niskanen Center, were willing and able to represent affected landowners' interests in the Federal Energy Regulatory Commission proceedings on the Pacific Connector Pipeline. That relationship led to this case and representation.

5. I attach summaries of my time devoted to this representation and action as Exhibit 1. The records reflect the time in 6-minute increments and the nature of the services and work performed. Given the work Ms. Gibson did to prepare the case and write the Motion for Summary Judgment, Ms. Malone's preparation of the Reply brief while Ms. Gibson was out on leave, and Mr. Bookbinder's oral argument, my services throughout were akin to associated local counsel for *pro hac vice* counsel, yet meaningful in the preparation of the case, as required of such relationship.

6. I am claiming a loadstar value of \$7,871.00 of fees and services to June 1, 2020. These rates are based on the prevailing market rates for attorneys of my level of experience and area of specialized practice, expertise, and knowledge, in the Southern Oregon market. The requested rate of \$308/hour for 2019 was calculated using the 2017 Economic Survey, showing the 75th percentile Southern Oregon rate for an attorney with 30+ years of experience in 2016 to be \$285/hour,¹ which adjusted for inflation using the Consumer Price Index Inflation Calculator from the U.S. Bureau of Labor² for July 2019 is \$308.64/hour.

13. The requested rate of \$310 an hour for 2020 was calculated using the above-noted rate of \$285/hour, which adjusted for inflation using the Consumer Price Index Inflation Calculator from the U.S. Bureau of Labor for the month of March 2020 is \$310.50/hour. The rate - \$310/hour - is no more than the market rate for an attorney of my level of experience, focused practice, expertise and knowledge in the Medford, Oregon market.

7. I further seek leave to provide a supplemental statement of fees for

¹ While the survey was published in 2017, the numbers are from 2016. *See* Oregon Bar 2017 Economic Survey, Report of Findings, at 40. *Available at:* https://www.osbar.org/_docs/resources/Econsurveys/17EconomicSurvey.pdf. Last visited June 5, 2020.

²Calculated from January 2016. *Available at:* https://www.bls.gov/data/inflation_calculator.htm. Last visited June 5, 2020.

award for services after and related the defendant's intent to seek a stay of the Court's Order.

I declare under penalty of perjury that the foregoing facts are true and correct.

Respectfully submitted this 9th day of June , 2020.

s/Tonia L. Moro

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EXHIBIT 1

Attorney Tonia L. Moro's Time				
Serviced	Description	Qty	Rate	Amount
2/15/2019	rev em from M Gibson and revise FOIA pleading; reply to email; rev later email from MG and DB re: FERC response and administrative appeal	0.3	308.00	92.40
5/14/2019	rev em from MG and reply	0.3	308.00	92.40
5/15/2019	rev complaint and disclosure; begin filling out civil cover sheet; tct B Moore; em to MG re: civil cover sheet; rev em from her; rev vm from JMontgomery at court; file complaint etc; em to JM re; ECF service and attorney representation issues; rev JM response;	3.2	308.00	985.60
	rev minute orders, download documents and forward to MG; em to MG re: clerk's response re: non-defendant summonses; rev em from MG re: issuance of non-defendant summonses; reply; tcf MG; research practice of serving USAG and USA DO.			
5/15/2019	forward receipt for filing fee 400 and complete W-9 for payment	0.2	308.00	61.60
6/24/2019	rev em from M Gibson; rev scheduling order and calendar	0.2	308.00	61.60
7/1/2019	rev minute order setting call info for Rule 16 conf call and calendar; tcf K Danielson; rev sched order and em to MG	0.4	308.00	123.20
7/10/2019	rev em from MG and reply and calendar call	0.1	308.00	30.80
7/22/2019	revise prposed sched order and publish to pdf; open and review current scheduling order; tct K Danielson (.2); em to Danielson	0.6	308.00	184.80
8/5/2019	Begin review of admin record docs; pull up court notices of Rule 16 conf; rev Rule 16 and attend phone conference (.2); look up pro hac vice app and fee and em to M Gibson	0.8	308.00	246.40
9/25/2019	rev minute order re: govt second continance request	0.1	308.00	30.80
11/13/2019	rev em correspondence from Gibson; rev local rule; email to Danielson re: conferring on moiton; rev govt mt and exhibitis; reseach	1.8	308.00	554.40
11/13/2019	rev em response from Danielson and forward to MGibson	0.1	308.00	30.80
11/14/2019	begin review of docs from MG and the rojas case	3.2	308.00	985.60
11/15/2019	rev em from MG and reply; continue review of drafts, particularly the objections in prep for call to Danieson; em query to M Gibson; tcf MG (.2); rev her em re: rule 7 material facts filing; reply; tct Danielson left detailed message; tcf Danielson (.2); look up rule; tct court re:rule 7-1b issue; em to MG	2.1	308.00	646.80
11/15/2019	email to Danielson re: expand length of potential continuence and rev his response; rev and respond to MG's request for title page and final issues conversation; rev documents and edit some typos; restyle the documents and file	2.5	308.00	770.00
11/18/2019	rev em from K Ramsey re: ferc deadline	0.1	308.00	30.80
11/19/2019	preliminary em to K Ramsey and rev his reply	0.1	308.00	30.80
11/20/2019	rev docket; rev scheduling order and reply to K Ramsey re: deadline for ferc's filing of both responses	0.1	308.00	30.80
11/20/2019	forward minute orders regarding argumen to MG; rev response from MG; look for prior conversation re: magistrate consent and forward to MG with a message	0.3	308.00	92.40
12/5/2019	open, review and execute the pro hoc applicaiton; file and forward emails to Megan and David	0.3	308.00	92.40
12/13/2019	rev em from Danielson; em to Bookbinder re: gov request; rev Bookbinder's response and em to Danielson	0.2	308.00	61.60
Subtotal 2019		17.0		\$ 5,236.00

1/2/2020	rev em from MGibson; download gov responses; draft motion to continue	0.5	310.00	155.00
1/2/2020	em to M Gibson the minute order	0.1	310.00	31.00
1/29/2020	rev em from Ciara; rev vm from Ciara and tcf Ciara; rev reply and make minor edits; file; em to Bookbinder and Ciara and rev response	1.7	310.00	527.00
1/30/2020	tcf B Moore and em to K Danielson	0.1	310.00	31.00
2/7/2020	em to Bookbinder re: forward em from Danielson	0.2	310.00	62.00
3/4/2020	tf DE	0.2	310.00	62.00
3/4/2020	email to plaintiffs and tcf SM	0.2	310.00	62.00
3/6/2020	rev em re: press about decision and filing with ferc; em to sm and de; rev response from SM; em to Danielson; draft letter to Bose; em to David, SM and DE; rev DE's response	1.1	310.00	341.00
3/6/2020	rev em from DB and file the letter and decision with ferc	0.3	310.00	93.00
3/12/2020	rev em from Alison and the calendar and respond	0.1	310.00	31.00
3/17/2020	finish rev and file; rev minute order and download both objections and em to Alison and Bookbinder	0.3	310.00	93.00
3/30/2020	rev em from Bookbinder and reply	0.1	310.00	31.00
3/31/2020	rev em from C Malone re: response to FERC objections	0.1	310.00	31.00
3/31/2020	rev and revise response and pull D. Oregon case and finalize response and file; em to ciara et al; rev response from Bookbinder	0.9	310.00	279.00
3/31/2020	download FERC response to objections; briefly review and forward to Niskanen	0.3	310.00	93.00
5/28/2020	rev ems from M Gibson; em to Danielson; tcf Danielson; em to MG; rev Danielson's em; respond with question for clarification; rev his response and em to MG	0.4	310.00	124.00
6/1/20	research bar economic survey and rev forms of fees	1.3		
6/8/2020	Review edits from MG on declaration, including CPI calculation, and read draft motion for atty fees	0.3	310.00	93.00
6/9/20	Received final motion for fees and memo from MG for filing, assembled exhibits and declarations, and filed motion.	0.3	310.00	93.00
Subtotal 2020		8.5		\$ 2,635.00
			Total	\$7,871.00